

REMARKS

The above amendments and these remarks are responsive to the Office action dated September 1, 2006, and are being filed under 37 C.F.R. § 1.111. Independent claim 57 and dependent claims 74-89 are pending in the application. In the Office action, the Examiner rejected all of the pending claims under 35 U.S.C. § 102 or § 103 as being anticipated or obvious. Applicants traverse the rejections, contending that the rejected claims are neither anticipated nor obvious. Nevertheless, to expedite issuance of a patent, and to more particularly point out and claim aspects of the invention that applicants would like to patent now, applicants have amended independent claim 57. Accordingly, applicants respectfully request reconsideration of the application and prompt issuance of a Notice of Allowability covering all of the pending claims.

I. Claim Rejections - 35 U.S.C. §§ 102 and 103

The Examiner rejected each of the pending claims as being anticipated or obvious. Claims 57, 74, 77, 78, 80, and 84-89 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,766,174 to Perry ("Perry"). In addition, claims 75, 76, 79, and 81-83 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Perry in view of U.S. Patent No. 5,709,686 to Talos et al., U.S. Patent No. 5,217,441 to Shichman, or U.S. Patent No. 5,676,666 to Oxland et al. Applicants traverse the rejections, contending that none of the cited references, taken alone or in combination, teaches or suggests all of the elements of any of the pending claims. Nevertheless, to expedite the issuance of a patent, and to more particularly point out and claim aspects of the invention that applicants like to patent now, applicants have

amended independent claim 57. Each of the pending claims is patentable for the reasons set forth below.

Independent claim 57, as amended, is directed to a system for bone fixation:

57. (Currently Amended) A system for bone fixation, comprising:
a bone plate structured to be secured to a bone such that the bone plate covers an exterior surface region of the bone, the bone plate [[and]] including a connective feature; and

a guide device including a guide portion and being structured to attach to the bone plate and to extend around the bone from the bone plate such that the guide portion opposes the bone plate across the bone and defines a guide axis for the connective feature of the bone plate.

The amendment to claim 57 is supported by the application, for example, in Figures 2, 6, 7, and 8. Furthermore, applicants believe that the amendment to claim 57 is inherent to the claim term “bone plate” as used in the field of medicine, particularly orthopedic medicine. In the Office action, the Examiner rejected claim 57 as being anticipated by Perry. However, Perry does not teach or suggest every element of claim 57. For example, Perry does not teach or suggest a bone plate and particularly not a bone plate as recited by amended claim 57.

Perry relates to an intramedullary bone fixation device, particularly an intramedullary nail or fixation rod. Figure 3 of Perry, which is reproduced below to facilitate review, presents a sectional view of a fixation rod 20 of Perry implanted in the medullary canal of a humerus bone 22. The fixation rod is attached to an alignment tower 24 via an anvil assembly 26. The alignment tower provides guide holes 40a (not labeled here), 40b, 42a, and 42b, which are positioned for alignment with “transfixation” holes 32a, 32b, 34a, and 34b of the fixation rod. The guide holes direct a nested drill

guide 30 and screw locator sleeve 31 to each of the proximal and intermediate transfixation holes.

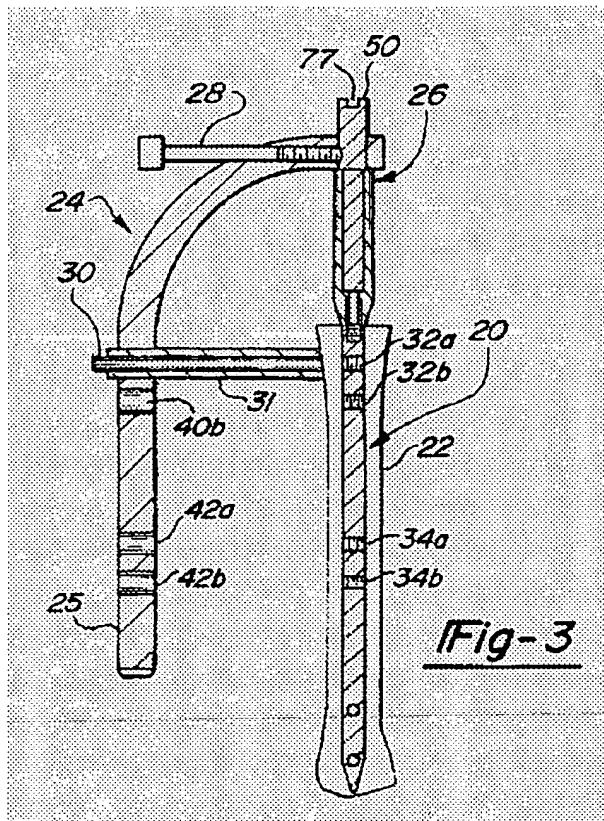


Figure 4 of Perry, which is reproduced below to facilitate review, illustrates fixation rod 20 in the absence of bone and in the absence of the alignment tower and anvil assembly. Fixation rod 20 has a proximal cylindrical section 74 and a distal rectangular section, termed a tapered blade 76. The tapered blade is disclosed to provide "greater resistance to torsion" for the fixation rod in unreamed cavities (col. 4, lines 5-7). Furthermore, the sections are disclosed to be inseparable in the rod, due to their formation together in a unitary body (see, e.g., Figure 3 with its single hatched area along the length of the rod; claim 1). Significantly, alignment tower 24 (see Figure 3 above) does not extend far enough to function with tapered blade 76. Furthermore,

Perry teaches away from the use of the alignment tower for the tapered blade (col. 4, lines 37-40). Instead, Perry discloses the use of a C-arm (i.e., x-ray targeting) to guide placement of transfixation screws into transfixation holes 36a and 36b of the tapered blade (col. 6, lines 5-9).

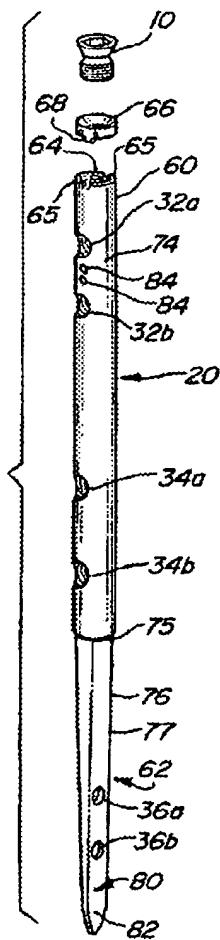


Fig-4

In the Office action, the Examiner asserted that the distal rectangular section (tapered blade 76) of fixation rod 20 is a bone plate, as recited by claim 57. Applicants strongly disagree. Tapered blade 76 is neither a bone plate according to standard usage of the term nor as particularly recited by claim 57.

Claim 57 recites a guide device including a guide portion that attaches to a bone plate and that defines a guide axis for a connective feature of the bone plate. As described above, Perry does not disclose a guide portion that defines a guide axis for a connective feature of tapered blade 76. Instead, Perry's alignment tower 24 defines guide holes only for the proximal cylindrical portion of the fixation rod. Accordingly, tapered blade 76 does not have a connective feature for which a guide portion defines a guide axis, as recited by claim 57.

Nevertheless, to expedite issuance of a patent, and to more particularly point out and claim aspects of the invention that applicants would like to patent now, applicants have amended claim 57 to clarify the meaning of the term "bone plate." In particular, applicants have amended claim 57 to recite, in part, "a bone plate structured to be secured to a bone such that the bone plate covers an exterior surface region of the bone." Applicants believe that this amendment to claim 57 further clarifies that neither the cylindrical intramedullary nail of Perry nor any portion thereof is a bone plate. Claim 57 thus should be allowed. Claims 74-89, which depend from claim 57, also should be allowed for at least the same reasons as claim 57.

II. Conclusion

Applicants believe that this application is now in condition for allowance, in view of the above amendments and remarks. Accordingly, applicants respectfully request that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a telephone interview would in any way advance

prosecution of the application, please contact the undersigned attorney of record, or his associate Stanley M. Hollenberg (Reg. No. 47,658), both at 503-224-6655.

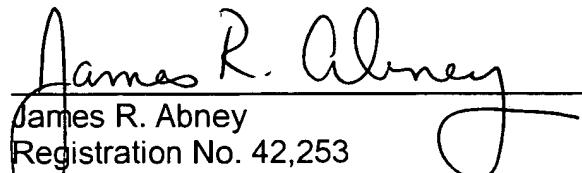
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Respectfully submitted,

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